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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,946	10/23/2003	Jeffrey S. Shapiro	6926-1	6324

4897 7590 08/01/2006	**EXAMINER**	
ROBERT C. KAIN, JR.	HARRIS, CHANDA L	

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ART UNIT	PAPER NUMBER
3715	

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/691,946	SHAPIRO, JEFFREY S.
	Examiner	Art Unit	
	Chanda L. Harris	3715	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>23 October 2003</u>.

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-63</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-63</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

Specification

The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed.

Claim Objections

The following claims are objected to because of the following informalities:

- Claims 17,38: "select" should be -- selected --.

- Claim 18,39: "decrease" should be -- decreases --.

- Claim 19,40,61: "where" should be -- wherein --.

- Claim 20,41,62: "the number" should be -- a number --.

- Claim 21,42: "bas" should be -- base --.

- Claim 46: "including" should be -- including --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form

the basis for the rejections under this section made in this Office action:

> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4-6, 16-19, 22, 25-27, 36-40, 43, 46-48, and 58-61 are rejected under 35

U.S.C. 102(b) as being anticipated by Weyer (US 6,024,572).

1.   [Claims 1,22,36,43]: Regarding Claims 1, 22, 36, and 43, Weyer discloses

interrupting the base computer program (i.e., game play); providing a least one question

to the user for answering; receiving an answer to the at least one question; and

determining whether to return to the base program or disrupt the base program. See

Abstract.

2.   [Claims 4,25,46]: Regarding Claims 4, 25, and 46, Weyer discloses wherein

interrupting the base computer program comprises interrupting the base computer

program at a set interrupt time interval (i.e., period (e.g., between 5 and 30 minutes)).

See Col.2: 30-31.

3.   [Claims 5-6,26-27,47-48]: Regarding Claims 5-6, 26-27, and 47-48, Weyer

discloses wherein providing at least one question to the user for answering further

comprises selecting the at least one question appropriate for the skill level of the user

and wherein the at least one question is selected from a database comprising questions

of different skill levels on at least one topic in Col.2: 41-43:

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After reading the applicable question level at block 215, a
question having the appropriate question level is selected from
a question database at block 220.  Any of a variety of well
known means may be used to select a question of the appropriate
level.
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4.   [Claims 16,37,58]: Regarding Claims 16,37, and 58, Weyer discloses providing a

delay question routine, and selecting the delay question routine, wherein the delay

question routine delays providing the questions for a delay time (e.g., between 5 and 30

minutes). See Col.2: 30-31.

5.   [Claim 17,38,59]: Regarding Claims 17, 38, and 59, Weyer discloses wherein the delay question routine can be selected at least one time. See Col.2: 30-31.

6.   [Claims 18,39,60]: Regarding Claims 18, 39, and 60, Weyer's invention is capable of providing wherein the delay time decreases after each selection of the delay question routine. See Col.2: 30-31.

7.   [Claims 19,40,61]: Regarding Claims 19,40, and 61, Weyer's invention is capable of providing wherein the delay time is a static time. See Col.2: 30-31.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 2, 23, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weyer in view of Ho et al. (US 5,743,743).

[Claims 2,23,44]: Regarding Claims 2,23, and 44, Weyer does not disclose expressly determining an identity of the user (e.g., via name). However, Ho teaches such in Col.11: 2-6. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate determining an identity of the user into the method and system of Weyer, in light of the teaching of Ho, in order to determine what type of program to distribute to the student.

Claim 3, 24, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weyer/Ho as applied to claims 2, 22, and 44 above, and further in view of Lockwood (US 6,554,618).

[Claims 3,24,45]: Regarding Claims 3, 24, and 45, Ho discloses entering user information for storage into a user database, wherein the user information includes a user name and selecting the user from the user database. See Col.11: 2-6. However Weyer/Ho does not disclose expressly wherein the user information includes a user age and a user skill level. Lockwood teaches such (i.e., student's name and current curriculum level) in Col.12: 28-45. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate a user age and a user skill level into the method and system of Weyer/Ho, in light of the teaching of Lockwood, in order to have a record of static and dynamic information regarding a student.

Claims 7, 28, and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weyer in view of Lundberg (US 5,980,264).

[Claims 7,28,49]: Regarding Claims 7,28, and 49, Weyer does not disclose expressly checking the answer to the at least one question for correctness; counting a number of correct answers and counting a number of wrong answers (i.e., overall score of right versus wrong answers); providing a score; and comparing the score to a score threshold (i.e., a predetermined number or percentage). See Col.2: 64-Col.3: 11. Therefore, at the time of the invention, it would have been obvious to one of ordinary

skill in the art to incorporate the aforementioned limitations into the method and system of Weyer, in light of the Lundberg, in order to promote learning.

Claims 8-15, 29-35, and 50-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weyer/Lundberg as applied to claims 7, 28, and 49 above, and further in view of Braunberger et al. (US 2003/0077559).

1.   [Claims 8,29,50]: Regarding Claims 8, 29, and 50, Lundberg discloses increasing the skill level (i.e., ... a user eventually "graduates" from a set of questions). Weyer/Lundberg does not disclose expressly returning the user to the base computer program when the score is greater than or equal to the score threshold. However, Braunberger teaches such (i.e., minimum achievement level has been met) on p.2, [0012]. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate the aforementioned limitation into the method and system of Weyer/Lundberg, in light of the teaching of Braunberger, in order to provide a resumption criteria that would allow the base program to be resumed.

2.   [Claims 9,51,56]: Regarding Claims 9, 51, and 56, Weyer discloses repeating claim 1. See Col.2: 30-31.

3.   [Claims 10,31,52]: Regarding Claims 10, 31, and 52, Weyer's invention is capable of decreasing or increasing the set interrupt time interval: "For example, the period between questions may range between 5 and 30 minutes" (Col.2: 30-32.).

4.   [Claims 11-13,32-34,53-55]: Regarding Claims 11-13, 32-34, and 53-55, Weyer/Lundberg does not disclose expressly penalizing the user when the score is

greater than or equal to the score threshold, wherein penalizing the user includes

disrupting the base computer program for a disruption time interval (i.e., the time that

the student is given some other question to answer or some other drill or lesson to

perform), and returning the user to the base computer program at the expiration of the

disruption interval (i.e., if the student's answer matches the correct answer). However,

Braunberger teaches such on p.3, [0031] and p.4, [0045], respectively:

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If the student's answer matches the correct answer,
"CORRECT" is displayed on the Testing GUI and the user
application is returned to the foreground and resumed.

As described in more detail below, the testing administrator can
limit the number of tries a student has to correctly answer a
question or perform some other task or drill.  For example, the
testing administrator can set a parameter in a configuration
file that limits the student to three tries to
correctly answer a question.  After three unsuccessful attempts
to answer the question, the student is given some other question
to answer or some other drill or lesson to perform.  This
restriction would require a student to think through his answer
or response, rather than take an unlimited number of guesses
that would not help him learn educational materials.
```

Therefore, at the time of the invention, it would have been obvious to one of ordinary

skill in the art to incorporate the aforementioned limitation into the method and system

of Weyer/Lundberg, in light of the teaching of Braunberger, in order to require a student

to think through his answer or response, rather than take an unlimited number of

guesses that would not help him learn educational materials.

3.   [Claims 14,30,35]: Regarding Claims 14, 30, and 35, Weyer discloses repeating

claim 1. See Col.2: 30-31.

4.   [Claim 15]: Regarding Claim 15, Weyer discloses providing the at least one

question to the user for answering; receiving an answer to the at least one question;

and determining whether to return to the base program or disrupt the base program.

See Abstract.

5.   [Claim 57]: Regarding Claim 57, Weyer discloses interrupting the base computer

program (i.e., game play); providing a least one question to the user for answering;

receiving an answer to the at least one question; and determining whether to return to

the base program or disrupt the base program. See Abstract.

Claims 20, 41, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Weyer.

[Claims 20,41,62]: Regarding Claims 20,41, and 62, Weyer does not disclose expressly

wherein the question routine includes a limit counter limiting the number of times that

the user can select the delay question routine. However, the practice of allowing a user

limited number of times to delay a routine (e.g., changing a password before it expires)

is old and well known in the art.   Therefore, at the time of the invention, it would have

been obvious to one of ordinary skill in the art to incorporate the aforementioned

limitation into the method and system of Weyer in order enable resuming working in a

base computer program.

Claims 21, 42, and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Weyer in view of Braunberger.

[Claims 21,42,63]: Regarding Claims 21,42, and 63, Weyer does not disclose expressly entering a bypass code to bypass the interrupting of the base program. However, Braunberger teaches such (i.e., passcode) on p.4, [0038]. Therefore, at the time of the invention, it would have been obvious to one of ordinary skill in the art to incorporate entering a bypass code to bypass the interrupting of the base program into the method and system of Weyer, in light of the teaching of Braunberger, so that the base program is returned to the user even if an educational task is not performed.

Citation of Pertinent Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Sorenson et al. (US 6,210,170)

  -teaching in a screen-saver environment

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chanda L. Harris whose telephone number is 571-272-4448. The examiner can normally be reached on M-F 6:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Chanda L. Harris
Primary Examiner
Art Unit 3715